

Title	Fee Waiver Orders
Summary	<p>Proposed revisions to the fee waiver forms <i>Order on Application for Waiver of Court Fees and Costs</i> (form 982(a)(18)) and <i>Order on Application for Waiver of <u>Additional</u> Court Fees and Costs</i> (form 982(a)(18.1)) would (1) provide two options for stating reasons denying in whole or in part a requested fee waiver, (2) add an optional box to indicate that the court address for an evidentiary hearing on the application is the same as above in the caption of the form, and (3) add “or Clerk” to the signature line for granting a nondiscretionary fee waiver under Government Code section 68511.3(a)(6)(A) or (B) and rule 985(d) of the California Rules of Court.</p>
Source	Civil and Small Claims Advisory Committee
Staff	Cara Vonk, (415) 865-7669, cara.vonk@jud.ca.gov
Discussion	<p>(1) The clerk/administrator of the Court of Appeal, Second Appellate District, requested more space on the <i>Order on Application for Waiver of Court Fees and Costs</i> (form 982(a)(18)), items 3e and 4, for inserting a statement of reasons denying in whole or in part the application for a fee waiver. He provided samples of completed forms showing creative methods used by courts to squeeze in (or not) the typewritten reasons by using highly abbreviated words. Some courts have resorted to using an asterisk to indicate that the reasons are continued elsewhere on the page, sometimes in the margin. If a fee waiver denial is appealed, the appellate court may find it difficult to decipher the superior court’s basis for denial when there is insufficient space on the form for stating the reasons for the denial.</p> <p>The committee created additional space under item 4 on the form for writing in reasons for a partial or whole denial of the requested fee waiver. Item 3e (denied in part) and item 4 (denied in whole) on the current form were combined and two option boxes were added under item 4. The first option is denial in whole or in part on the ground that the “monthly household income exceeds guidelines (Gov. Code, § 68511.3(a)(6)(B); form 982(a)(17)(A)),” which is frequently the reason for denying a requested fee waiver. The second option is “Other” with reasons for the denial specified on a separate sheet labeled “Attachment 4.” The committee noted that because of the high volume of fee waivers, it might be better if “other” reasons for the denial could be stated on the reverse of the order form instead of on a separate attachment sheet to help expedite processing of the petitions</p>

and orders. The committee would welcome comment on this issue.

(2) Item 5(c) was revised to add an optional box to indicate that the court address is the same as above in the caption of the form. The address would not have to be written out again if the evidentiary hearing on the application will be held in the same location as the court address indicated in the caption of the form.

(3) The committee noted that there is no provision for the clerk to sign the order granting a non-discretionary fee waiver and proposes to add “or Clerk” to the signature line. The clerk may *grant* nondiscretionary fee waivers under Government Code § 68511.3(a)(6)(A) or (B) and under rule 985(d) of the California Rules of Court for applicants who are receiving public assistance or whose monthly income is 125 percent or less of the currently monthly poverty line. The clerk is not, however, authorized to *deny* an application for a fee waiver.

These revisions are also proposed for form 982(a)(18.1), *Order or Application for Waiver of Additional Court Fees and Costs*.

The committee wishes to inform the courts and the public that the Information Sheet on Waiver of Court Fees and Costs (form 982(a)(17)(A)) was amended March 1, 2002, to increase the monthly household income guidelines consistent with recently revised federal poverty guidelines.

The proposed revised forms follow.

Attachments

1. The application was filed on (date): _____

2. The application was filed by (name): _____

3. ☐ IT IS ORDERED that the application is **granted** ☐ in whole ☐ in part (see Cal. Rules of Court, rule 985; item 4).

a. ☐ **No payments.** Payment of all the fees and costs listed in California Rules of Court, rule 985(i), **is waived.**

b. ☐ **The applicant shall pay** all the fees and costs listed in California Rules of Court, rule 985(i), EXCEPT the following:

(1) ☐ Filing papers. (6) ☐ Sheriff and marshal fees.

(2) ☐ Certification and copying. (7) ☐ Reporter's fees* (valid for 60 days).

(3) ☐ Issuing process and certification. (8) ☐ Telephone appearance (Gov. Code, § 68070.1(c)).

(4) ☐ Transmittal of papers. (9) ☐ Other (specify code section): _____

(5) ☐ Court-appointed interpreter (small claims only).

* Reporter's fees are per diem pursuant to Code Civ. Proc., §§ 269, 274c, and Gov. Code, §§ 69947, 69948, and 72195.

c. **Method of payment.** The applicant shall pay all the fees and costs when charged, EXCEPT as follows:

(1) ☐ Pay (specify): _____ percent. (2) ☐ Pay: \$ _____ per month or more until the balance is paid.

d. The clerk of the court, county financial officer, or appropriate county officer is authorized to require the litigant to appear before and be examined by the court no sooner than four months from the date of this order, and not more than once in any four-month period. ☐ The applicant is ordered to appear in this court as follows for review of his or her financial status:

Date:	Time:	Dept.:	Div.:	Room:
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e. ☐ The clerk is directed to mail a copy of this order to the applicant's attorney or to the applicant if unrepresented.

f. **All unpaid fees and costs shall be deemed to be taxable costs if the applicant is entitled to costs and shall be a lien on any judgment recovered by the applicant and shall be paid directly to the clerk by the judgment debtor upon such recovery.**

4. ☐ IT IS ORDERED that the application is **denied** ☐ in whole ☐ in part for the following reasons:

a. ☐ Monthly household income exceeds guidelines (Gov. Code, § 68511.3(a)(6)(B); form 982(a)(17)(A)).

b. ☐ Other (specify on Attachment 4).

c. The applicant shall pay any fees and costs due in this action within 10 days from the date of service of this order or any paper filed by the applicant with the clerk will be of no effect.

d. The clerk is directed to mail a copy of this order to all parties who have appeared in this action.

5. ☐ IT IS ORDERED that a **hearing** be held.

a. The substantial evidentiary conflict to be resolved by the hearing is (specify): _____

b. The applicant should appear in this court at the following hearing to help resolve the conflict:

Date:	Time:	Dept.:	Div.:	Room:
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c. The address of the court is (specify):
☐ Same as above

d. The clerk is directed to mail a copy of this order to the applicant only.

NOTICE: If item 3d or item 5b is filled in and the applicant does not attend the hearing, the court may revoke or change the order or deny the application without considering information the applicant wants the court to consider.

WARNING: The applicant must immediately tell the court if he or she becomes able to pay court fees or costs during this action. The applicant may be ordered to appear in court and answer questions about his or her ability to pay fees or costs.

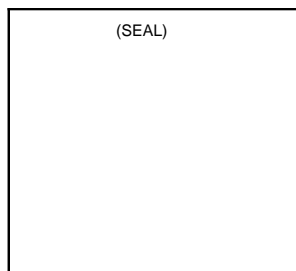
JUDICIAL OFFICER OR CLERK (Cal. Rules of Court, rule 985(d))

PLAINTIFF/PETITIONER (Name):	CASE NUMBER:
DEFENDANT/RESPONDENT (Name):	

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown below, and that the mailing of the foregoing and execution of this certificate occurred at
 (place): _____, California,
 on (date): _____

Clerk, by _____, Deputy



CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: _____

Clerk, by _____, Deputy

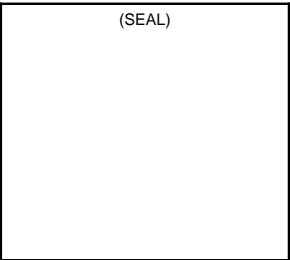
- Date: _____
- _____
JUDICIAL OFFICER OR CLERK (Cal. Rules of Court, rule 985(d))

PLAINTIFF/PETITIONER (Name):	CASE NUMBER:
DEFENDANT/RESPONDENT (Name):	

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown below, and that the mailing of the foregoing and execution of this certificate occurred at (place): , California, on (date):

Clerk, by _____, Deputy



CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date:

Clerk, by _____, Deputy